

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LEONARDO BANES SR.,) Case No.	
)	
Plaintiff,)	
)	
v.)	NOTICE OF REMOVAL OF ACTION
)	TO FEDERAL COURT
)	
THE HOME DEPOT, INC.,)	
)	
)	Cobb County Superior Court
Defendant.)	Case No. 24102514
)	
)	
)	
)	Action Filed: April 3, 2024
)	Trial Date: None Set
)	

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA:**

PLEASE TAKE NOTICE that Defendant, The Home Depot, Inc. (“Defendant”) hereby removes the matter filed by Plaintiff Leonardo Banes Sr. (“Plaintiff”) in the case entitled *Leonardo Banes Sr. v. The Home Depot, Inc.*, pending in the Superior Court of Georgia, County of Cobb, Case No. 24102514, to the United States District Court for the Northern District of Georgia as described below:

I.

FILING AND SERVICE OF THE COMPLAINT

1. On or about April 3, 2024, Plaintiff filed his complaint in the Cobb County Superior Court, entitled *Leonardo Banes Sr. v. The Home Depot, Inc.*, pending in the Superior Court of Cobb County, State of Georgia, Case No. 24102514 (the “Complaint”).

2. Plaintiff served the Complaint on Defendant on April 18, 2024. True and correct copies of the Summons and Complaint and all other documents are attached hereto as Exhibit “A”. Defendant has not yet responded to the Complaint. To Defendant’s knowledge, no other defendant has been served or named. *See Salveson vs. Western States Bankcard Ass’n*, 731 F.2d 1423, 1429 (9th Cir. 1984) (defendant need not join in or consent to the notice of removal if the nonjoining defendant has not been served with process in the state action at the time the notice of removal is filed.).

II.

THIS COURT HAS FEDERAL QUESTION JURISDICTION

3. This action is a civil action for which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and is one which may be removed pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1443, in that it appears from the Complaint that Plaintiff has filed a civil rights action, and his claims are founded on a claim or right arising under the laws of the United States.

4. More specifically, it appears from the Complaint that this is a civil rights action alleging violations of the Americans with Disabilities Act, 42 U.S.C. § 12182 *et seq.* (Complaint: “This is a violation of the ADA American disability law title III”).

III.

THIS NOTICE OF REMOVAL IS TIMELY AND PROPERLY FILED

5. The filing of this Notice of Removal is filed within the time period required under 28 U.S.C. § 1446(a).

6. Defendant will give written notice of the filing of this Notice of Removal to all adverse parties as required by 28 U.S.C. § 1446(d) and will file a copy of this Notice of Removal with the Superior Court of Cobb County, State of Georgia, as further required by that Section.

7. Venue is proper in this Court because the action is being removed from the Superior Court of Cobb County, State of Georgia.

8. The undersigned counsel for Defendant has read the foregoing and signs the Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

WHEREFORE, having provided notice as is required by law, the above-entitled action should be removed from the Superior Court of Cobb County to this Court.

This 17th day of May, 2024

Respectfully submitted,

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/s/ Rob Wheeler

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(to be admitted *pro hac vice*)

*ATTORNEYS FOR DEFENDANT,
THE HOME DEPOT, INC.*